



**BILLING CODE: 6750-01S**

**FEDERAL TRADE COMMISSION**

**[File No. 132 3163]**

**Nissan of South Atlanta, LLC, Also Doing Business as Nissan South; Analysis of Proposed Consent Order to Aid Public Comment**

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed Consent Agreement.

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**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order -- embodied in the consent agreement -- that would settle these allegations.

**DATES:** Comments must be received on or before February 10, 2014.

**ADDRESSES:** Interested parties may file a comment at

<https://ftcpublic.commentworks.com/ftc/nissanconsent> online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Nissan of South Atlanta, LLC - Consent Agreement; File No. 132-3163" on your comment and file your comment online at

<https://ftcpublic.commentworks.com/ftc/nissanconsent> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the

following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D),

600 Pennsylvania Avenue, NW, Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Mark Glassman, Bureau of Consumer Protection, (202-326-2826), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR § 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 9, 2014), on the World Wide Web, at <http://www.ftc.gov/os/actions.shtm>. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before February 10, 2014. Write “Nissan of South Atlanta, LLC - Consent Agreement; File No. 132-3163” on your comment. Your comment - including your name and your state - will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure

that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which . . . is privileged or confidential," as discussed in Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), and FTC Rule 4.10(a)(2), 16 CFR § 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR § 4.9(c).<sup>1</sup> Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/nissanconsent> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a

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<sup>1</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR § 4.9(c).

comment through that website.

If you file your comment on paper, write “Nissan of South Atlanta, LLC - Consent Agreement; File No. 132-3163” on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before February 10, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

#### **Analysis of Proposed Consent Order to Aid Public Comment**

The Federal Trade Commission (“FTC”) has accepted, subject to final approval, an agreement containing a consent order from Nissan of South Atlanta, LLC, also d/b/a Nissan South. The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the FTC will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

The respondent is a motor vehicle dealer. According to the FTC complaint, respondent has advertised that consumers can finance the purchase of vehicles by paying \$99 per month

with a \$0 downpayment. The complaint alleges that, in fact, consumers will pay \$99 per month for only the first two months of an 84-month period. The complaint further alleges that the advertisements fail to state the amount of each payment beyond the first two months of financing. The complaint alleges therefore that the respondent's representations are false or misleading in violation of Section 5 of the FTC Act. In addition, the complaint alleges that the respondent violated the Truth in Lending Act ("TILA") and Regulation Z for failing to clearly and conspicuously disclose required information concerning costs and credit terms.

The proposed order is designed to prevent the respondent from engaging in similar deceptive practices in the future. Part I.A prohibits the respondent from misrepresenting the cost of: (1) purchasing a vehicle with financing, including but not necessarily limited to the amount or percentage of the downpayment, the number of payments or period of repayment, the amount of any payment, and the repayment obligation over the full term of the loan, including any balloon payment; or (2) leasing a vehicle, including but not limited to the total amount due at lease inception, the downpayment, amount down, acquisition fee, capitalized cost reduction, any other amount required to be paid at lease inception, and the amounts of all monthly or other periodic payments. Part I.B prohibits the respondent from misrepresenting any other material fact about the price, sale, financing, or leasing of any vehicle.

Part II of the proposed order addresses the TILA allegations. It requires clear and conspicuous TILA and Regulation Z disclosures when advertising any of the relevant triggering terms with regard to issuing consumer credit. It also requires that if any finance charge is advertised, the rate be stated as an "annual percentage rate" using that term or the abbreviation "APR." In addition, Part II prohibits any other violation of TILA or Regulation Z.

Part III of the proposed order requires respondent to keep copies of relevant

advertisements and materials substantiating claims made in the advertisements. Part IV requires that respondent provide copies of the order to certain of its personnel. Part V requires notification to the Commission regarding changes in corporate structure that might affect compliance obligations under the order. Part VI requires the respondent to file compliance reports with the Commission. Finally, Part VII is a provision “sunsetting” the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order’s terms.

By direction of the Commission.

Donald S. Clark,  
Secretary.

[FR Doc. 2014-01001 Filed 01/17/2014 at 8:45 am; Publication Date: 01/21/2014]